UNITED
NATIONS

E

Economic and Social
Council

Distr.
LIMITED

E/CN.4/1997/L.112
15 April 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Agenda item 9

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

India: proposed amendments to E/CN.4/1997/L.69

I. AMENDMENTS

1. First preambular paragraph: delete "the extensive human suffering of refugees and displaced persons" in line 3 and replace with "violations of human rights which often result in such exoduses".

2. Second preambular paragraph: delete the text after "displacement of people" in line 5.

3. Third preambular paragraph: delete the entire paragraph.

4. Fourth preambular paragraph: delete the entire paragraph.

5. Fifth preambular paragraph: delete the text after "... humanitarian action" in line 2.

6. Sixth preambular paragraph: delete from " Welcoming " in line 1 to "and" in line 4; "also" and from "and the representative of the Secretary-General" in line 6 to "internally displaced persons" in line 7.

7. Seventh preambular paragraph: move "United Nations High Commissioner for Human Rights" from lines 3/4 to before "United Nations High Commissioner for Refugees" in line 1, insert "and" after "United Nations Development Programme", and delete from "with a view to" to "activities" in the last line.

8. Eighth preambular paragraph: delete the entire paragraph.

9. Ninth preambular paragraph: change "has important capabilities" in line 3 to "may have capabilities".

10. Tenth preambular paragraph: delete entire paragraph.

11. Eleventh preambular paragraph: replace "violence and exploitation" at the end of the paragraph with "violations of human rights".

12. Twelfth preambular paragraph: delete entire paragraph.

13. Thirteenth preambular paragraph: add "the Universal Declaration of Human Rights", after "principles of" in line 1, and "and that their basic human rights, including access to judicial remedies, should be ensured" at the end of the paragraph.

14. Fourteenth preambular paragraph: delete entire paragraph.

15. Insert before operative paragraph 1 the following heading:
"I. General".

16. Operative paragraph 1: replace "to develop a comprehensive approach to" in line 4 with "towards compiling information on".

17. Operative paragraph 5: delete entire paragraph.

18. Operative paragraph 6: delete entire paragraph.

19. Operative paragraph 7: delete the text after "... in their reports" in line 6.

20. Operative paragraph 9: delete the text after "... mass exoduses" in line 7.

21. Operative paragraph 10: delete the text after "Early Warning System" and replace it with "calls upon the High Commissioner for Human Rights to continue his cooperation with the Department of Humanitarian Affairs in this regard, ensuring that there is no duplication of such efforts on the part of the Centre for Human Rights".

22. Operative paragraph 11: delete the text after "... Humanitarian Affairs" in line 3.

23. Operative paragarph 12: delete from "give high priority" in line 1, to "... inter alia" in line 4 and replace it with "ensure".

24. Operative paragraph 13: delete entire paragraph.

25. Operative paragraph 14: delete entire paragraph.

26. Operative paragraph 15: delete entire paragraph.

27. Operative paragraph 16: delete entire paragraph and replace it with "Disturbed at the widespread violation of the principle of non-refoulement and of the rights of refugees, in some cases resulting in loss of refugee lives, and seriously disturbed at reports indicating that large numbers of refugees and asylum seekers have been refouled and expelled in highly dangerous situations, and recalls that the principle of non-refoulement is not subject to derogation,".

28. Operative paragraph 17: delete last three lines starting with "with particular" and ending with "effectively".

II. NEW PARAGRAPHS FOR INCLUSION

II

Protection and human rights issues

19. Notes that durable solutions to situations of mass exodus must be designed in such a way as to reinforce protection;

20. Recalls that protection considerations should govern the entire process towards solutions and that standards should be applied consistently across the world;

21. Calls upon States to introduce legislation for the protection of the rights of refugees in line with relevant international standards; review existing legislation and deportation procedures with regard to their compatibility with basic human rights standards and refugee law; ensure that expulsions do not involve the separation of families and that deprivation of liberty is used only as a measure of last resort;

22. Notes with concern that attitudes to refugee protection and refugees in many countries range from indifference to active hostility, and condemns in this regard prolonged and arbitrary detention of asylum seekers in refugee centres as well as decisions to repatriate asylum seekers without proper respect for international human rights standards and norms of refugee law;

23. Notes also with concern the inadequate application of law and policy to asylum seekers, in particular women and children, and the insufficient attention paid to the general principles of non-discrimination;

24. Notes with concern that policies of "temporary protection", "orderly repatriation", "mandatory repatriation" and "passively accepted repatriation" may lead to violations of the human rights of asylum seekers and refugees and may also result in a conflict with the basic protection role of the Office of the United Nations High Commissioner for Refugees;

25. Views with concern the growth of racism and intolerance against refugees, migrants and other categories of persons who form part of the phenomenon of mass exodus;

26. Deplores the tardiness of the international community in responding to humanitarian crises through timely, coordinated and decisive action;

III

United Nations High Commissioner/Centre for Human Rights

27. Notes that the prevention of and response to situations of mass exodus may be beyond the capacity of the United Nations High Commissioner for Human Rights and may go beyond his mandate;

28. Recognizes that institutions responsible for sustaining the rule of law play an important role in removing the causes of mass exoduses and, in this context, calls on the High Commissioner to continue his efforts, at the request of the Governments concerned, to reinforce national legal, judicial and administrative capacity, including training opportunities through technical cooperation programmes in countries of origin as well as host countries, particularly developing countries;

29. Welcomes the efforts of the High Commissioner to create an environment viable for return in post-conflict societies through initiatives such as the rehabilitation of the justice system, creation of national institutions capable of defending human rights, broad-based programmes of human rights education as well as the strengthening of local non-governmental organizations through programmes of advisory services and technical cooperation;

30. Calls upon Governments to contribute generously to the efforts of the High Commissioner to expand his technical cooperation activities and requests the High Commissioner to focus in particular on countries that receive as well as contribute to mass exoduses;

IV

Causes

31. Reaffirming that the aspect of causes is critical to the issue of solutions and that international efforts should be directed to the removal of the causes of mass exoduses;

32. Recognizes that the causes of mass exoduses are often of a structural nature and are directly linked to the prevailing unjust and inequitable international political and economic order, and notes in this regard that the study of purely national aspects alone will not reveal the real roots of the problem;

33. Notes that the use of force, foreign occupation or domination, unilateral economic coercion and international sanctions, particularly when foodstuffs and medical requisites are denied to populations, are factors in creating refugees and mass exoduses;

34. Affirms that chronic underdevelopment is one of the root causes of the phenomenon of mass exodus and that the linkage between the two establishes the close and vital relationship between violations of the right to development and violations of civil and political rights;

35. Notes that mass exodus and the failure to develop durable solutions, including through the fulfilment of the right to development, can exacerbate existing tensions and lead to renewed conflict and violations of civil and political rights resulting in recurring mass population movements;

V

Solutions and burden-sharing

36. Noting that while displaced persons remain within the territorial jurisdiction of their own countries, the primary responsibility for their welfare and protection lies with the State concerned;

37. Recognizes that countries of asylum carry a heavy burden, including in particular developing countries with limited resources and those which, owing to their location, host large numbers of refugees and asylum seekers, and reiterates in this regard its commitment to uphold the principles of international solidarity and burden-sharing, and calls on Governments and the High Commissioner for Human Rights to continue to respond to the needs of countries hosting large numbers of refugees until durable solutions are found;

38. Reaffirms that while the primary responsibility for tackling population displacement problems lies with the affected countries themselves, these serious challenges cannot be met by the limited resources and experience of the countries facing these problems alone, particularly developing countries;

39. Emphasizes the responsibility of all States and international organizations to cooperate with countries on whom the large-scale presence of refugees weighs most heavily;

40. Notes that respect and protection of all human rights, including the right to development, are essential in avoiding mass exoduses and in achieving long-term solutions to displacement;

41. Reaffirms that resettlement is an instrument of protection and a durable solution and in this connection urges Governments to respond actively to the resettlement needs of refugees in a spirit of burden-sharing;

42. Notes with concern the gap between development planning mechanisms and humanitarian resource mobilization which could result in gaps in assistance to populations that have recently returned or resettled, and affirms that unsustainable economic conditions in the area of return and insufficient financial support to returnees could be a factor slowing down the process of return, reintegration and reconciliation;

43. Notes that the prevention of mass exoduses requires lasting and effective solutions and requires bilateral and multilateral efforts with specific commitments and effective contributions to developing countries in order to promote the realization of all human rights, in particular the right to development, and welcomes in this regard the holistic approach to promotion and protection of human rights adopted by the High Commissioner.